

# EXHIBIT 2001

1 **CALDARELLI HEJMANOWSKI & PAGE LLP**

2 William J. Caldarelli (SBN #149573)

3 Ben West (SBN #251018)

4 12340 El Camino Real, Suite 430

5 San Diego, CA 92130

6 Telephone: (858) 720-8080

7 Facsimile: (858) 720-6680

8 [wjc@chplawfirm.com](mailto:wjc@chplawfirm.com)

9 [dbw@chplawfirm.com](mailto:dbw@chplawfirm.com)

10 **FABIANO LAW FIRM, P.C.**

11 Michael D. Fabiano (SBN #167058)

12 12526 High Bluff Drive, Suite 300

13 San Diego, CA 92130

14 Telephone: (619) 742-9631

15 [mdfabiano@fabianolawfirm.com](mailto:mdfabiano@fabianolawfirm.com)

16 **OSBORNE LAW LLC**

17 John W. Osborne (*Appointed Pro Hac Vice*)

18 33 Habitat Lane

19 Cortlandt Manor, NY 10567

20 Telephone: (914) 714-5936

21 [josborne@osborneipl.com](mailto:josborne@osborneipl.com)

22 **WATTS LAW OFFICES**

23 Ethan M. Watts (SBN #234441)

24 12340 El Camino Real, Suite 430

25 San Diego, CA 92130

26 Telephone: (858) 509-0808

27 Facsimile: (619) 878-5784

28 [emw@ewattslaw.com](mailto:emw@ewattslaw.com)

Attorneys for Plaintiff Ameranth, Inc.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**IN RE: AMERANTH  
PATENT LITIGATION**

**CASE NOS.**

11cv1810 DMS (WVG)	12cv1643 DMS (WVG)
12cv0729 DMS (WVG)	12cv1644 DMS (WVG)
12cv0731 DMS (WVG)	12cv1646 DMS (WVG)
12cv0732 DMS (WVG)	12cv1648 DMS (WVG)
12cv0733 DMS (WVG)	12cv1649 DMS (WVG)
12cv0737 DMS (WVG)	12cv1650 DMS (WVG)
12cv0739 DMS (WVG)	12cv1651 DMS (WVG)
12cv0742 DMS (WVG)	12cv1652 DMS (WVG)
12cv0858 DMS (WVG)	12cv1653 DMS (WVG)
12cv1627 DMS (WVG)	12cv1654 DMS (WVG)
12cv1629 DMS (WVG)	12cv1655 DMS (WVG)
12cv1630 DMS (WVG)	12cv1656 DMS (WVG)
12cv1631 DMS (WVG)	13cv0350 DMS (WVG)
12cv1633 DMS (WVG)	13cv0352 DMS (WVG)
12cv1634 DMS (WVG)	13cv0353 DMS (WVG)
12cv1636 DMS (WVG)	13cv1072 DMS (WVG)
12cv1640 DMS (WVG)	13cv1520 DMS (WVG)
12cv1642 DMS (WVG)	13cv1525 DMS (WVG)
12cv2350 DMS (WVG)	13cv1840 DMS (WVG)

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF PLAINTIFF  
AMERANTH, INC.'S MOTION TO DISQUALIFY  
COUNSEL**

<b>Date:</b>	<b>January 3, 2014</b>
<b>Time:</b>	<b>1:30 p.m.</b>
<b>Location:</b>	<b>Courtroom 13A</b>
<b>Judge:</b>	<b>Hon. Dana M. Sabraw</b>

Complaint Filed: August 15, 2011

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Page**

I. INTRODUCTION..... 1

II. BACKGROUND FACTS.....4

III. ARGUMENT.....7

    A. California Courts Look To ABA Rule 1.12 As Persuasive Authority. ....8

    B. Mr. Warriner Is Now Working Against Ameranth On The Same Subject Matter He Was Involved With In A Judicial Capacity.....9

    C. Mr. Warriner Was Likely Privy To Confidential Information Which Ameranth Shared Directly With Judge Everingham But Did Not Divulge To Defendants In *Ameranth v. Menusoft*. .... 16

    D. Defendants Have Asserted New Arguments Since Mr. Warriner Joined the Fulbright Firm to Work on These Matters. ....20

    E. The Fulbright Defendants Would Not Be Unduly Prejudiced By Disqualification Of Their Present Counsel. ....22

IV. CONCLUSION .....23

**TABLE OF AUTHORITIES**

	<b><u>Page</u></b>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	

  

<i>Advanced Messaging Techs. v. EasyLink Services Intern.</i> 913 F.Supp. 2d 900 (C.D. Cal. 2010).....	16
<i>Archuleta v. Turley</i> 904 F.Supp.2d 1185 (D. Utah 2012).....	11, 19
<i>Bernhoft Law Firm, S.C. v. Pollock</i> 2013 WL 542087 (S.D. Cal. 2013) .....	8
<i>Cho v. Superior Court of Los Angeles County</i> 39 Cal. App. 4th 113 (1995).....	8, 18, 19
<i>City and County of San Francisco v. Cobra Solutions</i> 38 Cal.4th 839, 847–48 (2006).....	15
<i>County of Los Angeles v. Forsyth</i> 223 F.3d 990 (9 <sup>th</sup> Cir. 2000).....	8, 17
<i>Fredonia Broadcasting v. RCA Corp.</i> 569 F.2d 251 (5th Cir. 1978).....	14
<i>Hall v. Small Business Admin.</i> 695 F.2d 175 (5th Cir. 1983).....	14, 18
<i>Hamid v. Price Waterhouse</i> 51 F.3d 1411 (9 <sup>th</sup> Cir. 1995).....	18
<i>Higdon v. Superior Court</i> 227 Cal. App. 3d 1667 (1991).....	8
<i>In re de Brittingham</i> 319 S.W.3d 95 (Tex. App. 2010) .....	13
<i>Isidor Paiewonsky Assoc., Inc. v. Sharp Prop., Inc.</i> 1990 WL 303427 (D. Virgin Is. 1990).....	10
<i>j2 Global Comms. Inc. v. Captaris Inc.</i> 2012 WL 6618272 (C.D. Cal. 2012).....	3, 15

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.